

through issuance of a conditional commitment by the Secretary or a certificate of reasonable value by the Department of Veterans Affairs, and

(b) A specified mortgagor and all other proposed terms and conditions of the mortgage meet the eligibility requirements for insurance as determined by the Secretary, the Secretary shall approve the application for insurance by issuing a firm commitment setting forth the terms and conditions of insurance.

[57 FR 58346, Dec. 9, 1992; 58 FR 13537, Mar. 12, 1993, as amended at 62 FR 30226, June 2, 1997]

MISCELLANEOUS REGULATIONS

§ 203.9 Disclosure regarding interest due upon mortgage prepayment.

Each mortgagee with respect to a mortgage under this part shall at or before closing with respect to any such mortgage, provide the mortgagor with written notice in a form prescribed by the Commissioner describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after August 22, 1991.

[56 FR 18947, Apr. 24, 1991]

§ 203.12 Mortgage insurance on proposed or new construction in a new subdivision.

(a) *Applicability.* This section applies to an application for insurance of a mortgage on a one- to four-family dwelling constructed in a new subdivision, unless the mortgage will be secured by a dwelling that:

(1) Was completed more than one year before the date of the application for insurance or, under the Direct Endorsement Program, was completed more than one year before the date of the appraisal;

(2) Is in a subdivision in which all development construction has been completed and accepted by the local jurisdiction and most dwellings have been completed, or which was approved under paragraph (e) or (f) of this section as in effect prior to September 2, 1993; or

(3) Is being sold to a second or subsequent purchaser.

(b) *Definitions.* For purposes of this section:

(1) *Subdivision* means the total area containing all of the proposed land development activities, building or construction operations which are under centralized control, and planned principal development elements to support the creation of five or more dwelling lots (or a lesser number of lots that HUD determines to be appropriate to require applicability of this section in individual cases).

(2) *Improved area* means an area that is all or part of a subdivision and is at least the minimum size for which the local government is willing to accept the streets, or the water and sewage systems for maintenance, as appropriate.

(3) *Partially completed*, with respect to an improved area, means that:

(i) The local government has accepted the plat of a subdivision or of an improved area, and the plan for its principal development elements and rights-of-way;

(ii) All government approvals to begin development and construction in the improved area have been secured;

(iii) All development or construction of the improved area's streets, water and sewage systems and utilities has proceeded to a point that precludes any major changes; and

(iv) Provisions are in place for continuous maintenance of the streets and water and sewage systems once the improved area is substantially completed.

(4) *Substantially completed*, with respect to an improved area, means that:

(i) With the exception of delays approved by the local government and the Secretary, the improved area's principal development elements have been completed;

(ii) The local government has issued occupancy permits or their equivalent on those new dwellings being processed for conditional commitments; and

(iii) The local government accepts, or will accept, for continuous maintenance the streets and the water and sewage systems. Where local acceptance for maintenance is not available, adequate provision for private maintenance must be demonstrated. However,

with respect to private water and sewer systems, the local government also must certify that public systems are economically infeasible, or that the property is served by a system approved by the Secretary under Title X of the National Housing Act.

(5) *Principal development elements* include, without being limited to, necessary grading, streets, water and sewage systems, utilities, storm drainage, and community facilities, as well as measures and devices for the abatement of nuisances and hazards.

(c) *Procedures.* (1) Applications for insurance to which this section applies will be processed in accordance with procedures prescribed by the Secretary. These procedures may only provide for endorsement for insurance of a mortgage covering a dwelling that is:

(i) located in an improved area in accordance with terms of a conditional commitment, or approval under the Direct Endorsement Program, issued as described in paragraph (d) of this section;

(ii) approved under the Direct Endorsement Program and included in a Master Appraisal Report, or in a Certificate of Reasonable Value or in a Master Certificate of Reasonable Value issued by the Department of Veterans Affairs; or

(iii) located in a subdivision approved by the Farmers Home Administration.

(2) Unless paragraph (d) of this section applies, or unless the property is located in a subdivision approved by the Farmers Home Administration, the mortgagee must submit a signed Builder's Certification of Plans, Specifications and Site (Builder's Certification). The Builder's Certification shall be in a form prescribed by the Secretary and shall cover:

- (i) Flood hazards;
- (ii) Noise;
- (iii) Explosive and flammable materials storage hazards;
- (iv) Runway clear zones/clear zones;
- (v) Toxic waste hazards;
- (vi) Other foreseeable hazards or adverse conditions (i.e., rock formations, unstable soils or slopes, high ground water levels, inadequate surface drainage, springs, etc.) that may affect the health and safety of the occupants or the structural soundness of the im-

provements. The Builder's Certification shall be provided to the appraiser for reference before the performance of an appraisal on the property.

(3) If a builder (or developer) intends to sell five or more properties in a subdivision, an Affirmative Fair Housing Marketing Plan (AFHMP) that meets the requirements of 24 CFR part 200, subpart M must be submitted and approved by HUD no later than the date of the first application for mortgage insurance in that subdivision. Thereafter, applications for insurance on other properties sold by the same builder (or developer) in the same subdivision may make reference to the existing previously approved AFHMP.

(d) *Improved areas.* (1) The conditional commitment or approval of the appraisal by the Direct Endorsement underwriter shall require that the improved area be at least substantially completed before endorsement for insurance. The conditional commitment may be issued or the appraisal may be approved for a dwelling located in an improved area when:

(i) The improved area is at least partially completed;

(ii) There is vehicular access to the finished lot at least to a line beyond the subject site or sites, and the lot and block grading are sufficiently finished to permit the appraiser to analyze the influence of adjacent areas on the subject site or sites;

(iii) Compliance with applicable requirements of the local government and the Secretary can be demonstrated; and

(iv) The mortgagee has submitted an Appraiser/Review Appraiser Checksheet, in a form prescribed by HUD, that contains information on floodplains, site and soil suitability, proximity to natural and manmade hazards including flammable and explosive materials, historic preservation sites or areas, wetlands, coastal zones, proximity to highways or railroads, toxic waste sites, airport hazards, and other field conditions that would affect acceptability for mortgage insurance of the lots covered by the Appraiser/Review Appraiser Checksheet.

(2) If HUD determines, based upon an assessment of the adequacy of local

subdivision standards and their enforcement, that the certification process described in paragraph (c)(2) of this section is inadequate to protect HUD's underwriting risk in an area, HUD may limit the endorsement of mortgages in the area to those mortgages processed in accordance with the procedures set forth in this paragraph (d). HUD will review all Appraiser/Review Appraiser Checksheets submitted in areas subject to a determination made under this paragraph (d)(2).

[58 FR 41338, Aug. 3, 1993, as amended at 58 FR 45553, Aug. 30, 1993]

§ 203.14 Builders' warranty for initial year of occupancy.

If the property was not completed more than 1 year before the date of the mortgage insurance application and the loan-to-value ratio for the mortgage exceeds 90% in accordance with § 203.18, the builder or other seller must provide to the mortgagor a 1-year warranty that:

- (a) Meets the requirements of section 801 of the Housing Act of 1954, if applicable;
- (b) Warrants against defects in equipment, material or workmanship resulting in noncompliance with standards of quality as measured by acceptable trade practices;
- (c) Is enforceable by the original purchaser of the property and any successor owners during the initial year of occupancy; and
- (d) Otherwise is acceptable in form and content to the Secretary.

(Approved by the Office of Management and Budget under control number 2502-0059).

[64 FR 14574, Mar. 25, 1999]

EFFECTIVE DATE NOTE: At 64 FR 14574, Mar. 25, 1999, § 203.14 was revised, effective Apr. 27, 1999. For the convenience of the user, the superseded text is set forth as follows:

§ 203.14 Builders' warranty.

Applications relating to proposed construction must be accompanied by an agreement in form satisfactory to the Secretary, executed by the seller or builder or such other person as the Secretary may require, and agreeing that in the event of any sale or conveyance of the dwelling, within a period of one year beginning with the date of initial occupancy, the seller, builder, or such other person will at the time of such sale or con-

veyance deliver to the purchaser or owner of such property a warranty in form satisfactory to the Secretary warranting that the dwelling is constructed in substantial conformity with the plans and specifications (including amendments thereof or changes and variations therein which have been approved in writing by the Secretary) on which the Secretary has based on the valuation of the dwelling. Such agreement must provide that upon the sale or conveyance of the dwelling and delivery of the warranty, the seller, builder or such other person will promptly furnish the Secretary with a conformed copy of the warranty establishing by the purchaser's receipt thereon that the original warranty has been delivered to the purchaser in accordance with this section.

[57 FR 58346, Dec. 9, 1992]

§ 203.15 Certification of appraisal amount.

An application with respect to insurance of mortgages must be accompanied by an agreement satisfactory to the Commissioner, executed by the seller, builder or such other person as may be required by the Commissioner, whereby the person agrees that before any sale of the dwelling, the person will deliver to the purchaser of the property a written statement, in a form satisfactory to the Commissioner, setting forth the amount of the appraised value of the property as determined by the Commissioner.

[58 FR 41001, July 30, 1993]

§ 203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes.

Every application filed with respect to insurance of mortgages on a two-, three-, or four-family dwelling, or a single-family dwelling which is one of a group of 5 or more single-family dwellings held by the same mortgagor, must be accompanied by a contract in form satisfactory to the Commissioner, signed by the proposed mortgagor covenanting and agreeing that so long as the proposed mortgage is insured by the Commissioner the mortgagor will not rent the housing or any part thereof covered by the mortgage for transient or hotel purposes, together with the mortgagor's certification under oath that the housing or any part thereof covered by the proposed mortgage will not be rented for transient or hotel purposes. For the purpose of this